

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re: KEVIN SMITH
A/K/A KEVIN SCOTT SMITH
TAMMY SMITH
A/K/A TAMMY LORRAINE SMITH

Debtors,

Case No.: 10-37408-KRH
Chapter 13

NUVELL CREDIT COMPANY, LLC

Plaintiff,

v.

KEVIN SMITH
CARL M. BATES, ESQUIRE

Defendants.

MOTION FOR RELIEF FROM THE AUTOMATIC STAY

NOW COMES Nuvell Credit Company, LLC ("Nuvell"), by counsel, and moves the Court for relief from the automatic stay pursuant to 11 U.S.C. Section 362, by reason of the following:

1. Nuvell has a validly perfected security interest in a 2005 Chevrolet Blazer, VIN 1GNCS18X15K106135, pursuant to an installment sales contract between the debtor-defendants and Nuvell dated January 8, 2006. True copies of the Retail Installment Note/Security Agreement and Certificate of Title evidencing the Plaintiff's security interest are attached hereto and incorporated

Carl A. Eason, Esquire
Counsel for Nuvell
Wolcott Rivers Gates
Convergence Center IV
301 Bendix Road, Suite 500
Virginia Beach, Virginia 23452
(757) 497-6633
VSB# 18636

herein by reference as Exhibits "A" and "B", respectively.

2. On October 25, 2010 the debtor-defendant filed for relief under Chapter 13 of the United States Bankruptcy Code and subsequently filed a Chapter 13 plan.

3. The debtor-defendant's Chapter 13 plan provides for the debtor to surrender the vehicle to Nuvell.

4. Nuvell has a valid security interest in the vehicle securing the total of \$19,475.59, plus interest, on which there is an outstanding balance due on said obligation of \$17,716.58.

5. The debtor-defendant is in default on the aforementioned contract for the payments due September 2, 2010 through November 2, 2010, in the amount of \$1,663.62, and such further defaults as may accrue during the pendency hereof.

6. The property is not necessary for an effective reorganization.

7. By reason of the foregoing, Nuvell's interest is not adequately protected.

WHEREFORE, Nuvell moves the Court for relief from the automatic stay pursuant to 11 U.S.C., Section 362, that the stay of such grant of relief imposed pursuant to the provisions of Rule 4001 (a)(3) of the Bankruptcy Rules be waived and for its fees and costs expended herein.

NUVELL CREDIT COMPANY, LLC

By: /s/ Carl A. Eason
Of Counsel

NOTICE: All parties served with a copy of this Motion shall have fourteen (14) days from the date of service in which to file with the Court a written response and provide same to the movant in this action.

NOTICE OF MOTION AND HEARING

Nuvell Credit Company, LLC has filed papers with the Court to obtain relief from the provisions of the automatic stay of the Bankruptcy Code with regard to certain property more particularly described in

those papers.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to grant the relief sought in the motion, or if you want the court to consider your views on the motion, then on or before December 1, 2010, you or your attorney must:

- ☒ File with the court, at the address shown below, a written request for a hearing [or a written response pursuant to Local Bankruptcy Rule 9013-1(H)]. If you mail your request for hearing (or response) to the court for filing, you must mail it early enough so the court will receive it on or before the date stated above.

Clerk of Court
United States Bankruptcy Court
701 East Broad Street, Suite 4000
Richmond VA 23219-3515

You must also mail a copy to:

Carl A. Eason, Esquire
Convergence Center IV
301 Bendix Road
Suite 500
Virginia Beach, VA 23452

Richard James Oulton, Esquire
P.O. Box 5928
Glen Allen, VA 23058

Carl M. Bates, Esquire
P.O. Box 1819
Richmond, VA 23218

- ☐ Attend a hearing to be scheduled at a later date. You will receive separate notice of hearing. **If no timely response has been filed opposing the relief requested, the court may grant the relief without holding a hearing.**
- ☒ **Attend the preliminary hearing scheduled to be held on December 21, 2010 at 9:30 a.m. at United States Bankruptcy Court, 701 East Broad Street, Courtroom 5000, Richmond, Virginia.**

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

Date: November 17, 2010

/s/ Carl A. Eason
Carl A. Eason, Esquire
Convergence Center IV
301 Bendix Road, Suite 500
Virginia Beach, VA 23452
(757) 497-6633
Virginia State Bar No. 18636
Counsel for Nuvel

CERTIFICATION OF SERVICE

I hereby certify that on the 17th day of November, 2010, a true copy of the foregoing Motion for Relief from the Automatic Stay and Notice of Motion and Hearing was mailed or electronically transmitted to Richard James Oulton, Esquire, P.O. Box 5928, Glen Allen, VA, 23058, counsel for debtors, to Carl M. Bates, Esquire, P.O. Box 1819, Richmond, VA, 23218, and to the debtor, 22175 Cammack Drive, Ruther Glen, VA, 22546.

/s/ Carl A. Eason